

trial of the same, the amount of the money so received, and so neglected or refused to be paid over, as the lawful money of the United States.

An. Code, sec. 119. 1904, sec. 109. 1892, ch. 25, sec. 79A.

**136.** In all cases where any person or persons shall be employed in the management or navigation of any vessel or vessels in any river, bay or other waters exclusively within this State, on shares, whereby the master and owner or owners of such vessel or vessels are to receive a certain share, respectively, of the proceeds derived from the sale of the cargo or cargoes thereof, the owner or owners of such vessel or vessels shall be deemed *ipso facto* owner or owners of a part of the cargo, equal in quantity to the share of the proceeds, which, by the terms of such employment, such owner or owners may be entitled to receive; and the master of such vessels shall be deemed to be the agent of the owner for the purpose of selling or disposing of such owner's share of the cargo; and the master of such vessel shall account for and pay over to such owner or owners his or their share of the cargo or the proceeds thereof; and if such master shall neglect or refuse to account for and pay over to such owner or owners the consideration received therefor, with intent to defraud the said owner or owners, or any of them, he shall be deemed guilty of a misdemeanor, and, on conviction thereof in any court of this State having criminal jurisdiction shall be subject to the penalty or penalties as provided in section 134 of this article.

An. Code, sec. 120. 1904, sec. 110. 1888, sec. 80. 1884, ch. 196.

**137.** Any person holding office in this State, whether elected or appointed by the governor, by the corporate authorities of Baltimore city, or by any other authority legally authorized to make such appointments, who shall fraudulently embezzle or appropriate to his own use money, funds or evidences of debt, which he is by law bound to pay over, account for, or deliver to the treasurer of this State, or to any other person by law authorized to receive the same, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to the penitentiary for not less than eighteen months nor more than ten years.

The state treasurer may be indicted under this section and punished for fraudulently embezzling state funds. His criminal responsibility is in no manner affected by his removal from office. Penal statutes are to be fairly and reasonably construed; title of act may be considered if law itself is obscure. *State v. Archer*, 73 Md. 56. And see *Vansant v. State*, 96 Md. 126.

This section does not apply to a clerk to county commissioners who embezzled money received on their account and as their agent. This section is applicable only to public officers required by law to account with or pay over to state treasurer or other person by law authorized to receive money. *State v. Denton*, 74 Md. 519.

This section referred to in deciding that a court clerk is liable to state for interest on public monies collected by him. *Vansant v. State*, 96 Md. 126.

### Escaping from Penitentiary.

An. Code, sec. 121. 1904, sec. 111. 1888, sec. 81. 1809, ch. 138, sec. 2. 1837, ch. 320, sec. 18.

**138.** If any offender, sentenced to undergo a confinement in the penitentiary, shall escape, he shall, on conviction thereof, suffer such additional confinement and hard labor, agreeably to the laws of this State, as the